

# **EXHIBIT 1**

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WASHINGTON  
3 AT SEATTLE

4 BUNGIE, INC., )

5 Plaintiff, )

CERTIFIED COPY

6 vs. )

No. 2:21-cv-811-TSZ

7 AIMJUNKIES.COM; PHOENIX )

8 DIGITAL GROUP, LLC; DAVID )

9 SCHAEFER; JORDAN GREEN; )

10 JEFFREY CONWAY; and JAMES )

11 MAY, )

12 Defendants. )

13 VIDEO RECORDED 30(B)(6) DEPOSITION UPON ORAL EXAMINATION

14 OF PHOENIX DIGITAL GROUP, LLC

15 BY DAVID SCHAEFER

16 6:02 P.M.

17 MARCH 20, 2023

18 WITNESS LOCATED AT: UNDISCLOSED LOCATION

19 REPORTED BY: BETSY E. DECATER, RPR, CCR 3109

20 JOB NO.: 971984  
21  
22  
23  
24  
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A P P E A R A N C E S

FOR THE PLAINTIFF:

CHRISTIAN W. MARCELO  
Perkins Coie LLP  
1201 Third Avenue  
Suite 4900  
Seattle, Washington 98101-3099  
(206) 359-8000  
cmarcelo@perkinscoie.com

FOR THE DEFENDANTS:

PHILIP P. MANN  
Mann Law Group  
403 Madison Avenue North  
Suite 240  
Bainbridge Island, Washington 98110  
(206) 855-8839  
phil@mannlawgroup.com

ALSO PRESENT: SCOTT NORTON, Videographer  
JAMES BARKER

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1 MARCH 20, 2023

2 6:02 P.M.

3 --oOo--

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5 VIDEOGRAPHER: Good evening, everyone. Here  
6 begins the remote deposition of Phoenix Group, LLC,  
7 pursuant FRCP 30(b)(6). This is in the matter of  
8 Bungie, Inc. versus AimJunkies.com, et al. This case is  
9 in the United States District Court, Western District of  
10 Washington at Seattle. Case number is 2:21-cv-811-TSZ.

11 Today's date is Monday, March 20th, 2023. The  
12 current time is 6:02 p.m. Pacific time. This is a  
13 remote deposition through Zoom video conferencing. The  
14 videographer is Scott Norton, here on behalf Centex  
15 Litigation Services. Would counsel please introduce  
16 yourselves and state whom you represent?

17 MR. MARCELO: Christian Marcelo for  
18 Plaintiff, Bungie. I'm joined by James Barker, general  
19 counsel for Bungie.

20 MR. MANN: And I am Philip Mann. I'm here  
21 on behalf of all Defendants, in particular Phoenix  
22 Digital for this particular 30(b)(6) deposition.

23 VIDEOGRAPHER: Thank you all very much. Our  
24 reporter today is of Betsy Decater with Centex. Will  
25 the reporter please swear in the witness.

1 DAVID SCHAEFER,  
2 sworn as a witness by the Certified Court Reporter,  
3 testified as follows:  
4

5 EXAMINATION

6 BY MR. MARCELO:

7 A. Now, is this the personal or the 30(b)(6)?

8 Q. This is the 30(b)(6) deposition of Phoenix  
9 Digital. My hope is that we will get everything done in  
10 this one deposition. But we can always shift over to  
11 the other deposition after if we need to.

12 Mr. Schaefer, you've been through this deposition  
13 process before, right?

14 A. Yes.

15 Q. You were deposed in connection with the  
16 arbitration?

17 A. Yes.

18 Q. Okay. So same general rules apply. I'm going to  
19 kind of go through them again. Remember to talk one at  
20 a time, wait for me to finish the question before you  
21 start answering. If something's unclear, ask me, I'll  
22 try to make the question more clear. No nonverbal  
23 answers. We'll need answers on the record. Okay?

24 A. Yes.

25 Q. And especially in video chats we tend to start

1 category does that question relate to?

2 MR. MARCELO: Sure. It relates to the  
3 foundational --

4 MR. MANN: I do not see foundational --

5 MR. MARCELO: Mr. Mann, Mr. Mann, you asked  
6 a question, let me finish the answer.

7 MR. MANN: Mr. Marcelo --

8 MR. MARCELO: No. Mr. Mann, when you ask a  
9 question, let me finish the answer.

10 MR. MANN: Answer my question.

11 MR. MARCELO: I am. This is a foundational  
12 question as to one of the three members of Phoenix  
13 Digital and their employment.

14 MR. MANN: Okay. Now, which category is  
15 that by number? My question to you is which 30(b)(6)  
16 category does this come under? You can answer that with  
17 a number?

18 MR. MARCELO: Sure. Mr. Mann, this is a  
19 normal foundational question. If you're instructing the  
20 witness not to answer, put that on the record, but keep  
21 your objections to form.

22 MR. MANN: I am not going to -- I have not  
23 instructed my witness anything. In fact, he raised it  
24 on his own. Mr. Schaefer, you know what the rules  
25 are --

1       A. Yeah. I believe -- am I interpreting this  
2       correctly? This is a 30(b)(6). It means I'm a  
3       representative of the corporation. What -- there is no  
4       relevance to my personal status in regards to my  
5       personal employment when it comes to the corporation.  
6       They're two different separate entities. So if you want  
7       to ask me questions about the corporation, you are  
8       welcome to do so. But when you delve into the personal  
9       side of my life, then you're not doing 30(b)(6).

10       Q. (BY MR. MARCELO) Mr. Schaefer, are you refusing  
11       to answer the question of whether you had any other  
12       employment?

13       A. Yes.

14       Q. Where are you currently working?

15       A. I'm not going to answer that.

16       Q. You're refusing to answer where you're currently  
17       working?

18       A. When you're ready to get into a personal  
19       deposition, then we can cross that bridge when we get  
20       there. But right now this is a 30(b)(6).

21       Q. And, Mr. Schaefer, you're refusing to answer  
22       where you're currently working?

23       A. Yes.

24       Q. What are your current sources of income?

25       A. Yes.



1 Q. Yes what?

2 A. I don't remember.

3 Q. You don't recall what your current sources of  
4 income are?

5 A. No.

6 MR. MANN: Objection. What is the 30(b)(6)  
7 category to which this question relates?

8 Q. (BY MR. MARCELO) Mr. Schaefer, did you do  
9 anything to prepare for this deposition.

10 A. Yes.

11 Q. What did you do?

12 A. I looked at all the categories that you listed  
13 that I needed to have myself prepared for and none of  
14 those included these questions.

15 Q. And are you prepared to testify as to those  
16 topics as Bungie's corporate representative?

17 A. No. I'm prepared to testify to the topics that  
18 you listed that the corporate representative needed to  
19 address. There was nothing in that list that addressed  
20 me personally, was there, Christian?

21 Q. Mr. Schaefer, I'm going to ask that you listen to  
22 the question. What I said was are you prepared to  
23 testify on each of the topics in the notice of  
24 deposition as Bungie's corporate representative?

25 A. Yes. As Phoenix Digital's corporate

1 representative.

2 Q. Thank you. Did you review any documents to  
3 prepare for this deposition?

4 A. Yes.

5 Q. What documents?

6 A. What documents I had in my possession.

7 Q. Do you recall any of those documents?

8 A. Not off the top of my head, no.

9 Q. Did you review any e-mails?

10 A. There weren't any e-mails to review.

11 Q. Did you review Phoenix Digital's terms of  
12 service?

13 A. Yes, I did.

14 Q. Any other documents you recall reviewing?

15 A. I don't remember.

16 Q. Did you --

17 A. I looked at -- I looked at the list that you  
18 provided me with, I followed up on it myself personally,  
19 and I'm ready to answer the questions of them. And I  
20 didn't see anywhere in there where it asked Mr.  
21 Schaefer's employment status, did it? Were any of those  
22 questions in there, Christian, address my employment  
23 status personally?

24 Q. Did you review your --

25 A. Yes or no?

1           A. What does this have to do with copyright,  
2   Christian? What does this have to do with fair use?  
3   Where's the relevance here in whether they let us know  
4   or not? Where's the relevance?

5           **Q. (BY MR. MARCELO) Mr. Schaefer, I'm going to ask**  
6   **the question --**

7           A. Not relevant. I'm not answering the question.

8           **Q. You're refusing to answer --**

9                   MR. MANN: I'm also -- I'm going to point  
10   out the question has been asked and answered before.

11          A. Yeah, I'm not answering the question. I've had  
12   enough.

13                   MR. MANN: Okay. It's going to be -- it's  
14   going to turn on the deposition transcripts and the  
15   testimony at the arbitration which is a matter of  
16   record, the words are written down, it's in black and  
17   white, they say what they say. Somebody's right and  
18   somebody's wrong. Mr. Schaefer, if you believe that  
19   you're right on this thing, stick with your answer. If  
20   there's anything you want to change, now's your  
21   opportunity to change it.

22                   My recollection is Mr. Marcelo and others have  
23   already asked this question. It's already been  
24   answered, but I'm not the witness, you are.

25          **Q. (BY MR. MARCELO) So, Mr. Schaefer, are you**

1 refusing to answer the question of whether Phoenix  
2 Digital's developers inform Phoenix Digital of what  
3 cheats they're working on?

4 A. I don't remember.

5 Q. Do you recall if they sometimes let Phoenix  
6 Digital know what cheats they're working on?

7 A. I don't remember.

8 Q. Specifically as to the Destiny 2 cheat, Mr. May  
9 told you he was working on a cheat for Destiny 2, right?

10 A. No.

11 Q. Mr. Banek informed Phoenix Digital he was  
12 developing a cheat for the Destiny 2, right?

13 A. Yes.

14 Q. Did any other developers inform Phoenix Digital  
15 they were developing a cheat for Destiny 2?

16 A. No.

17 MR. MANN: And, obviously, Mr. Marcelo knows  
18 this because he's already asked these questions before,  
19 but that's another matter.

20 Q. (BY MR. MARCELO) Is Phoenix Digital currently  
21 providing services for Mr. Banek?

22 A. We process payments. That's standalone from the  
23 website. That's all we're doing is processing payments  
24 for him.

25 MR. MANN: And, again, this is a matter of

1 further inquiry previously. This is in the record. You  
2 know it.

3 A. No. The status -- Phil --

4 Q. (BY MR. MARCELO) What I'm asking you is has --

5 A. Hold on, Christian. The status has changed. The  
6 last time you asked this question we were in the back  
7 end of the website and processing payments. That's --  
8 that status has changed to where we're not in the  
9 website in any way, shape or form.

10 Q. And that is why we are asking these questions.

11 A. And that's why I'm answering them.

12 Q. Now, so Phoenix Digital processes payments for  
13 AimJunkies.com right now, right?

14 A. That is correct.

15 Q. And is it the same process we discussed before  
16 where if someone purchases a cheat it goes to a Phoenix  
17 Digital account?

18 A. Yes.

19 Q. And then Phoenix Digital distributes that to a  
20 cheat developer?

21 A. And to Banek.

22 Q. And then what portion does Phoenix Digital  
23 retain?

24 A. 10 percent.

25 Q. Does Mr. Banek still only accept payment in

1 bitcoin?

2 A. Yes.

3 Q. And so is there still a Phoenix Digital bitcoin

4 wallet?

5 A. There never was a Phoenix Digital bitcoin wallet.

6 Q. What bitcoin wallet -- strike that. Who owns the

7 bitcoin wallet that pays Mr. Banek?

8 A. I don't remember.

9 Q. But there is a bitcoin wallet that's operated by

10 Phoenix Digital that makes payments to Mr. Banek, right?

11 A. I have to think about that. I don't remember.

12 Q. Well, how does Mr. Banek receive payment?

13 A. Through bitcoin.

14 Q. Who pays Mr. Banek?

15 A. I pay Mr. Banek.

16 Q. And how do you transfer bitcoin to Mr. Banek?

17 A. Phoenix Digital doesn't have a wallet. The

18 website has a wallet, I believe, and -- and I got to

19 think about that one a little bit. I don't know whose

20 fucking wallet that is, but whatever. This will be a

21 good one in court.

22 Q. But there's a wallet that Phoenix Digital has

23 control of, right?

24 A. Yes.

25 Q. And it's used to pay Mr. Banek, right?

1 A. Yeah. I don't know whose wallet it is.

2 Q. And when you say you don't know whose wallet it  
3 is, does that mean you don't know who created the  
4 wallet?

5 A. I don't know who created the wallet. It's not  
6 one of our personal wallets.

7 Q. Who has access to that wallet?

8 A. I do.

9 Q. Does anyone else have access to that wallet?

10 A. No.

11 Q. How long have you been using that bitcoin wallet?

12 A. For 20 days.

13 Q. And you also have a personal bitcoin wallet,  
14 right?

15 A. No.

16 Q. You previously had a bitcoin wallet?

17 A. Yes.

18 Q. When did you get rid of that?

19 A. Last year.

20 Q. What is the bitcoin wallet address of the wallet  
21 that's used to pay Mr. Banek?

22 A. I have no idea.

23 Q. But you would have access to look it up, wouldn't  
24 you?

25 A. I would have to ask Banek what he's taking

1 payments on.

2 Q. But you just said you have control of the wallet  
3 that makes payments to Banek, right?

4 A. Yes.

5 Q. So I'm wondering, you'd be able to look up the  
6 wallet address of that wallet, right?

7 A. I do not have access to that wallet.

8 Q. You don't have access to the wallet that pays Mr.  
9 Banek?

10 A. No.

11 Q. But you make the payments from that wallet to Mr.  
12 Banek?

13 A. Yes.

14 Q. How do you not have access to it?

15 A. Because I don't.

16 Q. How do you make payments to Mr. Banek from a  
17 wallet you have no access?

18 A. Oh, my God. You've already asked this question.

19 Q. How do you make payments to Mr. Banek from a  
20 wallet that you can't access?

21 MR. MANN: Go ahead and answer it again if you  
22 can.

23 A. The money gets sent to a cold wallet and the cold  
24 wallet gets sent to Banek, what's in the cold wallet.

25 The cold wallet is destroyed every month and it's sent



1 to Banek.

2 Q. (BY MR. MARCELO) You said the money gets sent to  
3 a cold wallet. That's money from a consumer purchasing  
4 a cheat?

5 A. Yes.

6 Q. Okay. The cold wallet, is that the wallet that  
7 you use to send money to Mr. Banek?

8 A. Yes.

9 Q. And how do you actually send the money from the  
10 cold wallet to Mr. Banek?

11 A. It's bitcoin.

12 Q. Don't you have to start a transaction?

13 A. Oh, my God. Do you deal in bitcoin at all?

14 Q. Mr. Schaefer, I'm asking for you to explain it to  
15 me. Walk me through how you send money to Mr. Banek  
16 from the cold wallet.

17 A. I don't know. I really don't know.

18 Q. You -- you do not know how you send money to Mr.  
19 Banek but you do it every month?

20 A. Yes, I do.

21 Q. You need Mr. Banek's wallet ID to send him money  
22 for bitcoin, right?

23 A. Yes.

24 Q. What's Mr. Banek's --

25 MR. MANN: I'm going to raise an objection

1 at this point. What does this have to do with any of  
2 the counterclaims and why couldn't these questions have  
3 been asked before? In fact, you have asked before.

4 THE WITNESS: They're trying to sew the  
5 fucking groundwork when it comes time to chase the money  
6 down when they think they're going to get some money.  
7 That's what this is about.

8 MR. MANN: Mr. Marcelo, what does this have  
9 to do with the counterclaims and what -- how is this any  
10 different than questions you did not already ask  
11 previously? This is a question to you, a serious  
12 question to you.

13 THE WITNESS: It's the exact same questions  
14 he asked three months ago.

15 MR. MANN: Exactly. Exactly.

16 MR. MARCELO And, Mr. Mann --

17 MR. MANN: No, we covered -- Mr. Marcelo, we  
18 covered this before. This -- you're going over the same  
19 ground you covered three times before. How -- what does  
20 this have to do with any of the counterclaims?

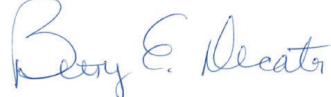
21 MR. MARCELO: This deposition is not limited  
22 to the counterclaims.

23 MR. MANN: You may say that. You may say  
24 that. I don't know. Dave, it's up to you. You want to  
25 take your chances with Judge Zilly?

## REPORTER'S CERTIFICATE

I, BETSY E. DECATER, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was requested; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND and DIGITAL SIGNATURE this 27th day of March, 2023.



BETSY E. DECATER, RPR  
Washington Certified Court Reporter, CCR 3109